



Home Office

# **PUBLIC SERVICE PENSIONS: POLICE PENSIONS (REMEDIABLE SERVICE) REGULATIONS 2023**

## **McCloud / Sargeant remedy: phase two (retrospective)**

### **Government response**



# Contents

1. Background	3
2. Executive summary	4
3. The Retrospective Remedy	5
4. Consultation	9
5. Summary of responses	20
6. Responses to specific questions	23
7. Impact Assessment and Equalities	53
8. Conclusion and next steps	55
9. Information and Data Handling	56
Consultation principles	57
Annex A – List of respondents	58
Annex B: Glossary of terms used in the consultation document	59

# Introduction and contact details

This document is the post-consultation report for the consultation which was published on 28 February 2023 and closed to responses on 23 May 2023 in relation to police pensions. The associated regulations are the Police Pensions (Remediable Service) Regulations 2023, which are free-standing regulations rather than amending regulations.

It will cover:

- the background to the consultation
- a summary of the consultation responses
- the government response to the specific questions raised and matters raised by respondents, and next steps

**Email:** [Policepensionspublicservicepensionsremedy@homeoffice.gov.uk](mailto:Policepensionspublicservicepensionsremedy@homeoffice.gov.uk)

Further copies of this report and the consultation paper can be obtained by contacting at the address below:

**Police Retrospective Remedy Consultation Response  
Police Workforce and Professionalism Unit  
Home Office  
6<sup>th</sup> Floor, Fry Building  
2 Marsham Street  
London SW1P 4DF**

**Email:** [Policepensionspublicservicepensionsremedy@homeoffice.gov.uk](mailto:Policepensionspublicservicepensionsremedy@homeoffice.gov.uk)

This report is also available at Police Pension Scheme retrospective remedy - GOV.UK ([www.gov.uk](http://www.gov.uk))

Alternative format versions of this publication can be requested from the Home Office using the above contact details.

## Complaints or comments:

If you have any complaints or comments about the consultation process, you should contact the Home Office at the above address.

# 1. Background

- 1.1. The government confirmed in a written ministerial statement on 15 July 2019 that it accepted that the Court of Appeal's judgment in *Lord Chancellor v. McCloud* [2018] EWCA Civ 2844, [2019] ICR 1489 ('McCloud') had implications for all schemes established under the Public Service Pensions Act (PSPA) 2013, since all of those schemes had provided transitional protection arrangements for older members. The government confirmed that it would take steps to address the difference in treatment across all of those schemes.
- 1.2. The Public Service Pensions and Judicial Offices Act (PSPJOA) 2022 provides an overarching framework to allow public service pension schemes to remedy the impact of unlawful age discrimination. That discrimination arose due to certain transitional arrangements put in place when public service pension schemes (including the police schemes) were reformed between 2014 and 2016. Secondary legislation is also required to amend the rules of each affected public service pension scheme to implement the remedy for their members. The remedy was designed to be delivered in two stages: the first, to bring the discrimination to an end (the prospective remedy) from 1 April 2022, and the second, to be implemented by 1 October 2023, to remedy the discrimination that had taken place between 1 April 2015 and 31 March 2022 (the retrospective remedy).
- 1.3. In the police pension schemes, the prospective remedy was implemented through the [Police and Firefighters' Pension Schemes \(Amendment\) Regulations 2022](#), which came into effect on 1 April 2022. Since that date, all police officers have been members of the 2015 reformed pension scheme. This second stage is to deliver the retrospective remedy.
- 1.4. The consultation welcomed views from interested parties on the draft regulations and policy intent to implement the retrospective phase of the McCloud/Sargeant remedy. There was specific interest in the views of groups that represent police officers, police employers, and others responsible for implementing the remedy changes.
- 1.5. The consultation asked 13 questions in relation to specific elements of the retrospective remedy: In and Out of Scope, Deferred Choice Underpin (DCU) and Immediate Choice (IC), DCU timing of remediable service statement (RSS), RSS process, Transfers, Added Pension, Contributions, Ill-Health Retirement, Abatement, Contingent Decisions, Divorce, Bereavement and Child Pension and any additional changes that may be required.
- 1.6. This report summarises the responses, including how the consultation process influenced the further development and final shape of the policy proposal consulted upon.

## 2. Executive summary

- 2.1. On 28 February, the government launched the consultation on the draft Police Pensions (Remediable Service) Regulations 2023 to address the changes being made to implement the 'retrospective remedy'. This involves making provisions to remove the effect of the transitional protections in place between 1 April 2015 and 31 March 2022 ('the remedy period') and implement provisions for a DCU. The DCU will give members a deferred choice of pension benefits at their point of retirement in respect of the remedy period, which is the period during which discrimination took place. Eligible members will be able to choose to receive legacy pension scheme benefits or benefits equivalent to those available under the 2015 reformed scheme for service during the remedy period. The regulations to enact the retrospective remedy come into effect from 1 October 2023. Police pension administrators will contact those members whom the remedy affects to notify them of the changes and what action will be required of them. A final set of regulations to ensure all eligible members (or their member representative) receive a choice of which pension scheme benefits they would prefer to have for their remedy period service is attached to this consultation response.
- 2.2. The draft regulations also included provisions to correct any overpayment or underpayment of pension benefits or member contributions. This includes benefits or contributions paid to or by a member because of their choice. The regulations will facilitate the payment of appropriate compensation to address financial loss arising from the discrimination or operation of the remedy.
- 2.3. Consideration has been given to further provisions that may be needed, beyond those in the published draft regulations that accompanied the consultation.
- 2.4. The Equality Impact Assessment was updated to take account of comments provided during the consultation period. The updated Equality Impact Assessment is published along with this response.
- 2.5. A list of respondents is at Annex A.
- 2.6. A Glossary of terms is at Annex B

## 3. The Retrospective Remedy

3.1. As individual members' circumstances differ the impact of implementing the remedy will vary. The Police Pension Scheme Managers will provide all eligible members and member representatives with information about the benefits available to them under the remedy, to enable them to make a choice of benefits in an RSS.

### Who will be in scope for pension remedy?

3.2. To be eligible for the retrospective pension remedy, an individual must have been in pensionable service under a relevant public service pension scheme both on or before 31 March 2012 and on or after 1 April 2015, without a disqualifying break in service. A disqualifying break in service is a gap of longer than five years. This is further defined in section 1(5)(b) the PSPJOA.

3.3. Since 10 March 2022, those who meet the above criteria are now eligible for the retrospective remedy. These members can be split into cohorts with varying circumstances:

- active members
- deferred members
- pensioner members
- individuals entitled to dependant and/or death lump sum benefits in respect of deceased members with eligible remedy period service.

3.4. These cohorts will also include members who joined a police pension scheme for the first time after 1 April 2012 but had previous pensionable service in another public service pension scheme on or before 31 March 2012.

3.5. It may also be possible for a member who had opted out of their police pension scheme because of the introduction of the 2015 reformed scheme to opt back into the scheme, subject to certain conditions. See the section of this document on Contingent Decisions (response to question 10, in particular paragraph 6.123) for further detail.

### Who will be out of scope for pension remedy?

3.6. The following members are out of scope for pension remedy:

- members who first joined pensionable public service on or after 1 April 2012; and
- members who have had a break in pensionable public service of more than five years, where that break fell into either or both of the following:
  - Started sometime on or before 31 March 2012 and the last day was sometime on or after 31 March 2012.

- Started sometime on or before 1 April 2015 and the last day was sometime on or after 1 April 2015

## Legislation

3.7. The PSPJOA applies to all the main public service pension schemes and received Royal Assent in March 2022. It provides the necessary powers to make consequential changes to public service pension schemes by 1 October 2023. Chapter 1 of the PSPJOA provides the framework for the remedy, including provision to make changes to public service pension scheme rules. Provisions are required to ensure those rules, including those of the police pension schemes, implement the proposed remedy.

3.8. The PSPJOA also provides for HM Treasury to make HM Treasury Directions [Public Service Pensions and Judicial Offices Act 2022: Treasury Directions - GOV.UK](#), which specify how certain powers under the PSPJOA are to be used by when making regulations relating to specific public service pension schemes.

3.9. HM Revenue and Customs (HMRC) are responsible for making regulations<sup>1</sup> which change the tax framework as a result of the public service pensions remedy. Those regulations give pension scheme administrators details of additional tax changes they will need to consider as part of the remedy.

## Remedy period and Remediable Service

3.10. The remedy period is the period during which the age discrimination occurred. It began with the implementation of the discriminatory rules on 1 April 2015 and ended when the differential treatment based on age came to an end on 31 March 2022, with the transfer of all remaining active members in the legacy schemes to the 2015 reformed police pension scheme. The choice of scheme design (the core of the retrospective pension remedy) is only offered in relation to pensionable service accrued during the remedy period.

3.11. Pensionable service accrued by in-scope members, under a legacy or 2015 reformed scheme during the period 1 April 2015 to 31 March 2022 inclusive is referred to as 'remedy period service' in this document. It is important to note that remedy period service includes service as a member of a legacy scheme as well as service as a member of the 2015 reformed scheme during the remedy period.

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<sup>1</sup> The Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 - GOV.UK ([www.gov.uk](http://www.gov.uk)); The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 ([legislation.gov.uk](http://legislation.gov.uk)); The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 - GOV.UK ([www.gov.uk](http://www.gov.uk))



## **Roll Back**

3.12. Roll back is the term used to describe the process by which in-scope members are placed back into the relevant legacy pension schemes for remedy period service. Under the retrospective remedy, all in-scope members will roll back to the scheme to which they would have belonged had the 2015 reformed police pension scheme not been introduced on 1 April 2015. It is possible that some members may have remedy period service in more than one legacy scheme as a result of the roll back. At retirement, in-scope members then get a deferred choice as set out below.

## **Deferred Choice (DC)**

3.13. The DC is set out in section 10 of the PSPJOA and applies to members not yet in receipt of benefits relating to remediable service (to include deferred and active members). At retirement they will receive a choice ('make a choice') of either the 2015 reformed scheme benefits, or their relevant legacy scheme benefits for any service accrued during the remedy period. All benefits accrued in the remedy period will be paid from a member's relevant legacy scheme, regardless of the member choice, but will be calculated according to the scheme rules that has been chosen.

3.14. Schemes are required to specify a period of time during which the member must make this choice. This must not be earlier than one year before the date it is reasonably expected that, if a choice to receive 2015 reformed scheme benefits is made would become payable in relation to the member's remedy period service. The choice is deemed to take effect immediately before the member becomes a pensioner. Where a member dies in service, the choice is deemed to have taken effect immediately before the member's death.

3.15. If an active or deferred member does not communicate a choice as to which scheme benefits to receive by the end of the choice period, schemes may use the powers in section 12 of the PSPJOA to deem a choice of benefits to have been made.

3.16. A member will be able to request an RSS, setting out the pension benefits available to them through a DC forecast, providing a suite of information as set out in section 29 of the PSPJOA and section 20 of HM Treasury Directions. Once the scheme manager has provided the RSS, a member must make their choice within twelve weeks of receiving the RSS. A DC will be able to be revoked up to 10 working days before benefits are due to become payable.

3.17. Where a member dies before making a choice then the member representative makes a choice on behalf of the member. The police pension scheme must determine who the eligible decision maker is that can make a DC on behalf of a deceased member as defined in regulations.

### **Immediate Choice (IC)**

3.18. IC applies to pensioner members, or member representatives of a deceased member, who are already receiving benefits relating to remediable service (IC cases). IC will also apply to members who left employment during the remedy period and did not qualify for ill-health retirement but will qualify for a retrospective ill-health pension under their alternative scheme. They will be given a choice as soon as practicable after 1 October 2023. The PSPJOA requires the choice to be made within 12 months of the member receiving their RSS or such later time that the Scheme Manager deems reasonable.

### **Changing a choice**

3.19. Section 11(6) of the PSPJOA provides that no DC may be revoked once benefits have been put into payment. Section 7(1)(c) also provides that an IC is irrevocable.

3.20. If a deferred/active member has made a DC and then dies prior to those benefits becoming payable, their choice will lapse. The eligible decision maker (member representative) will then receive a new RSS and will make an IC.

### **Default position where no choice is made**

3.21. In cases where a member fails to make a choice, the default position is that a member's relevant legacy scheme benefits would be payable in respect of the remedy period service. However, the PSPJOA does provide that pension schemes may include in their rules provision which allows the scheme manager to treat a choice as having been made. The Home Office has considered whether and how this power should be used in the context of the police pension schemes.

## 4. Consultation

- 4.1. During the consultation period, the Home Office engaged with the Police Pensions Scheme Advisory Board (England and Wales) ('the SAB'), holding sessions between 2021 and 2023.
- 4.2. The SAB was established under the Police Pensions Regulations 2015<sup>2</sup>, comprising police employer and member representatives, and part of its role is to provide advice to the Home Secretary on the merits of making changes to the police pensions scheme.
- 4.3. The aim of the sessions was to ensure stakeholders were given the opportunity to directly engage with the Home Office on the scheme level changes, to ensure the draft regulations would achieve the stated policy aim. A further aim was to give stakeholders an opportunity to seek clarification on any aspects of the consultation and the draft regulations.

### **Policies consulted on:**

#### **Interest**

- 4.4. Interest payments must be calculated and paid on relevant amounts in accordance with the PSPJOA and HM Treasury Directions. It was important that this was included in the consultation to understand if there were any interactions with the police pension schemes' regulations that would not work without amendments or new provisions.
- 4.5. There are several specific circumstances in which interest may arise. For example, differences in member contributions and tax relief payable (including missed member contributions), differences in pension amounts received following a choice for other scheme benefits, voluntary member contributions, and differences in lump sums paid to members whose benefits are in payment prior to the DC being introduced.
- 4.6. In line with HM Treasury Directions, interest is applied to individual calculations and is not 'netted off'. Where a payment of interest needs to be made, the scheme manager will individually apply interest to any debit and credit, and these figures will be added together to reach the final interest liability. The approach ensures that members who have been paid the incorrect amounts on any of their pension, including pension contributions or in instances where they have been

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<sup>2</sup> The Police Pensions Regulations 2015 (legislation.gov.uk)

overpaid pension benefits, are not placed in an advantageous or disadvantageous position as a result of the retrospective phase of the remedy.

- 4.7. A 'netting off' approach, where payments in different directions could offset each other before applying interest, was considered but ultimately rejected as to do so would not have been in members' favour.

### **Annual Benefit Statements (ABS)/Remedial Service Statements (RSS)**

- 4.8. The PSPJOA requires that schemes issue members with an RSS: section 29 of the PSPJOA and direction 20 of HM Treasury Directions set out what must be included in such statements.

- 4.9. This legislation also covers who is entitled to an RSS, the time frame within which the first RSS may be sent following the implementation of the remedy and the frequency with which different categories of member receive them after that point.

- 4.10. The purpose of an RSS is:

- I. to provide a member with the information they require to make a choice between legacy and 2015 reformed scheme benefits
- II. to start the process for making various choices for IC members
- III. to provide an opted-out member with information they require to decide whether to opt back into the scheme

- 4.11. Scheme managers must ensure that eligible retired, active and deferred members or member representatives are issued with information about their pension benefits that includes remedy period service. This will either be through the pre-existing ABS process (active members) or via a dedicated RSS (for example, where a member has retired).

- 4.12. An ABS provides members with an overview of their current pension accrual. An RSS will do much the same but is a requirement under the PSPJOA and the remedy regulations rather than existing scheme regulations. This type of statement must include the alternatives for pension accrual during the remedy period under both 2015 reformed and legacy schemes.

### **Transfers**

- 4.13. As a consequence of all remedy period service being rolled back into a member's relevant legacy schemes, the regulations will make provisions to allow the scheme to deal with any transfers into the 2015 reformed scheme that took place during the remedy period at the point the member makes a choice.

4.14. The PSPJOA has powers under section 21 which determine what happens to transferred-in service. These allow transfers-in to move into the legacy scheme (and equivalent benefits provided) but do not require it.

4.15. Section 21 provides powers to alter any transfer-in made in relation to remedy period service in another public service scheme or any transfer made (for the purposes of the police pension scheme) between 31 March 2015 and 31 March 2022. The powers include varying a transfer-in to provide equivalent rights under an alternative eligible scheme or extinguishing the transferred in rights and providing equivalent or alternative rights under an eligible scheme or varying the rights dependent on any choice under section 6 or section 10 of the PSPJOA.

### **Added Pension (AP)**

4.16. As the service in the remedy period must be rolled back in the legacy schemes, any voluntary contributions for additional benefits must be addressed in implementing the remedy. In the 2015 reformed police scheme, AP is the only available voluntary additional benefit. It can be purchased either by one-off lump sum payments or by making periodic payments of a particular amount. AP is not available in the police legacy schemes.

4.17. Various ways of converting to alternative benefits in the legacy scheme have been considered, but all the options either have restrictions on them that mean they cannot be guaranteed to apply in all cases or lead to a difference in treatment between cohorts of members. This means that all such members will be dealt with under the compensation provisions.

### **Contributions**

4.18. Employee contributions paid by a scheme member may need to be adjusted where:

- There is a difference in contributions rates between the legacy schemes and 2015 reformed scheme, whether for members in general or for certain categories of member
- A scheme member had tapered transitional protection, and they paid both legacy scheme and 2015 reformed scheme contributions during their remedy period service (because taper-protected members are not allowed to retain a mix of legacy scheme and 2015 reformed benefits for the remedy period)

4.19. The current contribution rates for the legacy 1987 scheme, are higher than those in the 2015 reformed scheme. This means that members who are rolled back to the 1987 legacy scheme for their remedy period service will owe the difference in contributions.

- 4.20. Conversely, the current contribution rates for the 2006 schemes are lower than those in the 2015 reformed scheme. This means that members who are rolled back to the 2006 scheme for their remedy period service will immediately be owed the difference in contributions paid as compensation.
- 4.21. This means that many eligible members who transitioned before 1 April 2022 will have an actual contributions adjustment and a record of contribution adjustments (actual and potential) will be needed for all eligible members.

### **Honoraria**

- 4.22. In certain limited circumstances, member of certain ranks in the police pension schemes can choose to have an honorarium in lieu of pensionable pay. However, in the 2015 reformed scheme, where uniform accrual means tax charges are less likely, officers are more likely to receive such amounts as pensionable pay (from which they are paying contributions).
- 4.23. When a member moves from the 2015 reformed scheme back to their legacy scheme and the relevant legacy scheme is the 1987 scheme, then the member notifies the scheme manager that they would have chosen an honorarium had they not been moved to the 2015 reformed scheme, the contributions they have paid on their pensionable pay in lieu of an honorarium would need to be refunded via compensation, with the relevant interest applied.

### **Ill Health Retirement**

- 4.24. The police pension schemes provide a range of ill-health retirement (IHR) benefits to members who are unable to continue working as a police officer due to being permanently disabled/permanently medically unfit.
- 4.25. To qualify for an ill-health pension, a police officer must be assessed and determined permanently incapable of performing the ordinary duties of a member of the force. To qualify for an additional higher-tier ill-health pension (in addition to a lower-tier ill-health pension) a member must also be assessed and determined incapable of undertaking any other regular employment (for thirty hours or more a week).
- 4.26. Any legacy scheme members who transitioned into the 2015 reformed scheme before being ill-health retired would have been assessed and determined under the 'single source' IHR arrangement. The 'single source' IHR arrangements provide that a member who has transitioned into the 2015 reformed scheme from the legacy 1987 and 2006 schemes becomes entitled to an ill-health pension that is all payable out of the 2015 reformed scheme.<sup>3</sup>

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<sup>3</sup> This arrangement changes at the "Normal Pension Age" in the legacy scheme. At that point the benefits revert to being paid out of each of the relevant schemes (i.e. some from legacy and some from reformed).

4.27. An ill-health pension is made up of a pension in respect of the member's legacy scheme service (this meaning a member receives an equivalent to the legacy scheme, but without any ill-health enhancement for 2015 reformed scheme or future service), and the ill-health pension paid from the 2015 reformed scheme. The full pension payment is then paid under the 2015 reformed scheme regulations. The higher-tier calculation in the member's legacy scheme is turned off (where it exists), and any entitlement to a higher tier pension is calculated entirely in accordance with the 2015 reformed scheme regulations.

### **Abatement**

4.28. Abatement applies in the legacy schemes for the police pension schemes. It does not apply to the 2015 reformed police pension schemes. It is a process which occurs when a member who has taken their benefits is re-employed as a police officer again, and the force that is paying the pension chooses to reduce or stop it altogether while the member is receiving pay as a police officer again.

4.29. Section 6(4)(a) PSPJOA provides for no changes to 2015 reformed scheme benefits unless no election has been made by the end of the election period. If a member is in receipt of 2015 reformed scheme benefits and makes a choice to continue to receive 2015 reformed scheme benefits their pension will not be abated. It's only if a member chooses legacy scheme benefits or the default applies that they would see a change.

4.30. Where an individual who retired and has been re-employed during the remedy period is moved back to their legacy scheme for the remedy period, abatement may then apply. The legacy schemes provide for abating pension where a member re-enters employment.

4.31. There should be very few members that will need to consider further abatement applying as part of their remedy choice. This is as a result of the way the protections worked for police pension scheme members, which meant that the vast majority of those who have retired at this point will have done so from their legacy scheme.

### **Contingent decisions (CD)**

4.32. A CD is a decision taken by a member, relating to their membership of the police pension scheme, that would have been different had it not been for the discrimination identified by the courts. The rectification offered by the scheme is time limited by a year from the issue of the RSS or, if later, within such later time as the scheme manager considers reasonable in all the circumstances.

4.33. For all CD, a key principle is that the member needs to make a claim to the scheme. The police pension schemes may use a template form or a bespoke form for scheme members to complete. It is the responsibility of each scheme manager to consider what needs to be done to alert members to the claims process. The



members must confirm the decision that was made and what they would have done differently had the discrimination identified by the courts not occurred.

- 4.34. Evidence to support the CD claim should be submitted with the claim form if applicable/available. The member may also, or instead, highlight information provided in the years before or during the remedy period about the member's intentions regarding, for example, their continued membership and retirement intentions. Including at the time of an original request to leave or not to join the scheme, which is held by the scheme administrator or employer. For example, an opt-out form that asks for a reason for opting-out might serve as evidence.
- 4.35. On receipt, the scheme manager considers whether the member qualifies for the CD, for example, for opt-out cases would they be in-scope for remedy if the contingent decision was reversed.
- 4.36. There are four categories of CD in the police pension scheme for which specific provision has been made:
- I. Opt-out: A member would not have opted-out if they had been allowed to remain in the legacy scheme beyond their transition date or if protected members had been allowed to join the 2015 reformed scheme from 1 April 2015
  - II. Transfers: Members chose to transfer (in or out) and now wish to revisit the decision, or they chose not to transfer and now wish to do so
  - III. Additional Service: Members argue they would have purchased (more) additional service if they were in the alternative (legacy) scheme
  - IV. Honoraria: Members say that if they had been in the alternative (legacy) scheme that they would have chosen an honorarium

### **Opt-outs - CD**

- 4.37. Members who made a choice to opt out directly relating to the pension reforms prior to their transition date will be able to make a CD claim. If successful a member will need to pay the contributions, they would have made plus interest as set out in the PSPJOA and HM Treasury Directions for the opted-out period of remedy period service. Further details on payment options are in this document in para 6.123.
- 4.38. Section 5 of the PSPJOA allows remedy period service to be reinstated but does not provide the power to reinstate any service pre or post the remedy period. Where a member can demonstrate to the scheme manager that they had a compelling and reasonable case to do this, scheme managers will need to use



provisions in existing scheme rules, if available, to allow reinstated service in respect of any pre- or post-remedy period.

### **Additional service - CD**

4.39. The police legacy schemes allowed members to buy additional service (either as 60ths<sup>4</sup> or years, depending on the scheme). Remedy-eligible members who would have been able to buy additional service in their legacy scheme during the remedy period will be able to elect to buy additional service under the terms that would have been available at the time. There are limits on the purchase of added years in the legacy schemes which are based on the total pension that a member would accrue if they continued working up to retirement age.

4.40. Any contributions that should have been made will have to be paid with interest added in line with payment options available under the adjustment of contributions.

4.41. The closure of the legacy schemes by 1 April 2022 will not qualify members under the additional service rules. A member's circumstances must mean that they would have qualified, had they been in the legacy scheme at the time without anticipating the closure of the scheme by 1 April 2022.

### **Transfers - CD**

4.42. This is where members chose to transfer (in or out) during the remedy period and now wish to revisit that decision. Members who transferred in are able to leave the transfer until the point of making a choice in case all or part of the transfer cannot be converted to the legacy scheme and compensation is necessary instead. Those who transferred out during will be entitled to a calculation to see if any further Cash Equivalent Transfer Value (CETV) is necessary.

### **Honoraria - CD**

4.43. Members who decided to receive an honorarium instead of additional pay or pay instead of an honorarium in the remedy period will be eligible to make a contingent decision claim to have the opposite applied. This will result in an adjustment of the overall contributions owed or compensation due (see contingent decisions section in this consultation response at 6.89).

### **Divorce**

4.44. Pension rights can be a valuable asset and, consequently, the value of any pension rights must be considered as part of a divorce settlement or on the dissolution of a civil partnership. Once pension assets have been identified and

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<sup>4</sup> The 1987 scheme had an uneven accrual rate, so the additional service provisions worked on the basis that a member would be able to purchase "60ths" of final salary accrual, being the approximate equivalent of a "year" offered by other final salary schemes.

valued, the parties must agree how to use this value in any financial settlement.

4.45. There are three options for using the value of those pension rights in any financial settlement:

- I. Offsetting the value of the pension benefits against other matrimonial assets.
- II. A pension sharing order (PSO)
- III. An earmarking order (EO) in Scotland or a pension attachment order (PAO), formerly known as an EO, in England and Wales

4.46. The PSPJOA does not make any specific provision in relation to pension offsetting or pension attachment orders.

4.47. PSOs rely on the scheme providing a Cash Equivalent Transfer Value (CETV) that can be considered when deciding how assets should be split. The CETV may be different under the legacy and 2015 reformed scheme rules, so there needs to be a recalculation for PSOs that have been applied in respect of police pension scheme members since 1 April 2015 up to implementation of the remedy, and there is a continued need for remedy to factor into the calculations for PSOs that occur after 1 October 2023.

4.48. Where there is a pension in payment and the member opts for a lower pension, meaning that in principle there would have been overpayments to the member and/ or former spouse, there will be no liability for overpayments from the ex-spouse which arise as a result of the member's choice of benefits and the ex-spouse's pension benefits will be kept at the same level going forward (unless the pension debit member had tapered protection in which case there might be a change if both options resulted in a lower CETV than the combination the member previously had).

*How will this work for cases that arose before implementation?*

4.49. Where a pension is already in payment, or where a member is still active or deferred, it is possible that the CETV which was used to determine the value of the member's pension and how it should be measured against other assets should have been lower or higher, in line with the member's choice of benefits. If it is higher than the CETV originally calculated, a portion of the additional amount in the same proportion as specified in the PSO will be converted to an additional pension credit and awarded to the pension credit member.

*How will this work for cases that arise after remedy implementation?*

4.50. Where a case arises after implementation but before the member has made a choice of benefits, the CETV will reflect the greater value available to the member. The member's pension could still change depending on their choice at retirement, but their former spouse will be unaffected.

4.51. Where a divorce takes place after the member has already retired and decided on the benefits they wish to receive in respect of their remedy period service, the CETV will reflect the choice the member has made.

### **Bereavement and Child Pensions**

4.52. Sadly, some eligible members may have died before they have made a choice in respect of their remedy period service.

4.53. If the eligible deceased member had not made a choice, then relevant scheme regulations will include a provision about who may make a choice in relation to remedy period service for an eligible deceased member. The member representative will make a choice of either legacy scheme benefits or equivalent new scheme benefits for the deceased member's remedy period service. This applies both in cases where benefits were already in payment before 1 October 2023 and cases where a member died in service or while deferred on or after 1 October 2023.

4.54. Where a pensioner member dies after their choice and their benefits have crystallised (typically where the member's pension is put into payment), the member representative is not entitled to make a second choice or to revoke a choice already made by the deceased eligible member.

4.55. The member representative will be (depending on the circumstances of the specific case):

- I. an adult survivor (that is, a surviving spouse/civil partner/life partner)
- II. a personal representative (that is, an executor)
- III. a parent/guardian of surviving children
- IV. an adult surviving 'child'
- V. a person agreed upon by parents/guardians and/or adult surviving 'children' and (if applicable) parents/guardians to be the member representative
- VI. a scheme manager

4.56. If the member representative is not the legal parent or guardian of the relevant children, or not the person agreed upon by the legal parent or guardian,

their decision might involve reducing the children's pensions in payment. The regulations will ensure that, in such cases, any child pension that is already in payment is not reduced as a result of the member representative's decision. This is based on the powers in section 22 of the PSPJOA.

### **Overpayments and Underpayments – Pensions in Payment**

4.57. Where a pension is in payment before a choice is made, and the member makes a choice which results in a change to benefits payable, the change to the pension benefits is backdated to the point when pension benefits initially became payable. A process of reconciliation will be necessary to ensure that the member has received the correct amount of pension over time, and this may result in one of the following situations:

- underpayments, resulting in payments from the scheme to the member (for example, added pension or lump sum)
- overpayments that have been made by the scheme to the member and which have to be repaid

4.58. Interest will be both payable on arrears owed to members and charged in relation to overpayments. A detailed explanation of interest policy can be found in the letter from HM Treasury to the Government Actuary, which is published alongside the HM Treasury directions, this sets out the rationale for the interest rates / policy in the directions

4.59. Section 14 of the PSPJOA provides that overpayments must be repaid to the scheme. However, the PSPJOA also provides that schemes may decide whether to waive all or part of any such liabilities owed to the scheme. HM Treasury Directions set out factors to be considered by the scheme when considering whether to waive or reduce any such liability by the member and that the principles set out in Managing Public Money should be followed.

4.60. Accordingly, the scheme manager must have regard to the circumstances of the member and (if different) the person by whom the amounts are to be paid. The scheme administrator (or manager) can choose to reduce or waive the liability. In addition, the scheme manager must consider if it is appropriate to allow the member to pay the liabilities in instalments. In reaching a decision, the following will be considered:

- whether the liability has arisen as a result of an immediate choice or a deferred choice option
- whether the member is deceased

- whether, in the reasonable opinion of the scheme manager, payment of the liability in full or in part would result in unreasonable hardship
- whether, in the reasonable opinion of the scheme manager, there are any other exceptional circumstances which mean the liability should not be paid in full or in part

4.61. The Home Office's approach is that the default option is a member's relevant legacy scheme benefits and so, in most cases, it will not treat a failure to make a choice as a choice for 2015 reformed scheme benefits. This is because of the wide range of benefits offered by the various police pension schemes, and the difficulty of assessing the value which individuals might place on them, in particular, the non-financial benefits (for example, whether benefits are payable to cohabitees and children born after service, pension age and differing ill-health pension provision). To do otherwise would, in effect, substitute the scheme manager's assessment of which scheme would be more beneficial for the circumstances of the member, and this is not considered appropriate.

4.62. Exceptionally, there may be some cases where the scheme manager uses their discretion to make the choice on behalf of the member. In all cases, if no communication from a member as to whether a member wished to make an election is received by the scheme administrator, an investigation will always be carried out to determine all the circumstances prior to any decision being made.

## Responses

4.63. Most of the responses received were from individual scheme members, member and employer representatives of the police pension scheme or other stakeholder groups. These respondents represented a range of views on the government's policy to address the discrimination identified in the McCloud/Sargeant cases and views on the scheme level changes proposed by the Home Office.

4.64. It is important to point out that the summary of findings is based on the relatively small number of responses received and that they are not necessarily representative of the views of all stakeholders affected by the proposed remediable service provisions. The Home Office considered the responses and identified the main points of support and challenge raised by respondents. These points, and the Home Office's response to them, are outlined in section 5 below.

## 5. Summary of responses

- 5.1. A total of 126 responses to the consultation paper were received. Of these, 21 were sent on behalf of police organisations and forces; and 105 were sent by individuals, who were largely serving and retired police officers.
- 5.2. 92 of the responses were submitted through an online survey, while the remaining 34 responses were received via email or letter, which did not necessarily follow the same format as the online survey or indicate which questions were being answered by the comments provided. Where possible, the content of these responses has been distributed across the open response questions, to where they fitted best. These responses may have indicated agreement or disagreement but to avoid error in interpretation, responses to closed questions have not been interpreted from open responses unless they had been formatted to fully replicate the survey.
- 5.3. Each question contained a closed question with responses invited to indicate one of two responses: 'yes' or 'no'. Each question was followed by an open question (either 'if yes, please explain why' or 'if no, please explain why'), each accompanied by an open text box. This enabled respondents to respond to the open question but also acted as an opportunity for respondents to add any additional comments. The open responses were analysed for common themes and levels of support for proposed measures.
- 5.4. Respondents were not required to answer all of the questions in the consultation. Accordingly, not all 126 responses answered every question and there were no questions that were answered in all 126 responses. This is reflected in the analysis below.
- 5.5. For most questions, respondents were asked to indicate whether they felt different aspects of the policy proposals achieved what they aimed to achieve. In the analysis of these questions, responses for 'yes' have been grouped to be described as those who agreed with the proposals. Similarly, responses for 'no' have been grouped as those who disagreed with the proposals.
- 5.6. Many of the individual responses focused on a dissatisfaction with the pension reforms that were introduced in 2015 and the age retirement issue, which is where members are not able to have their reformed pension in payment at the earliest point their legacy pension is payable. Both issues arise due to changes made and introduced in 2015 and are therefore not part of this final set of regulations to ensure all eligible members (or their member representative) receive a choice of which pension scheme benefits they would prefer to have for their remedy period service.

- 5.7. It is understandable that the age retirement issue is very important to members. However, this issue is a consequence of the move from a purely service-based pension scheme to one that is also based on age. The ‘two part’ nature of the benefits and the different points at which they are paid was set out in 2013 as part of the long-term pension reforms that were introduced in 2015. More on this issue is set out in the response to question 13.
- 5.8. In addition, there were concerns about the consultation being delayed and/or at a late stage of the process of getting the remedy in place. While it is correct that the need for remedy has been known for some time, it is the complex and interconnected nature of the changes needed that has meant that finalising this policy and regulations any sooner was not achievable.
- 5.9. There were also concerns about issues that are not directly to do with this remedy and some respondents would have liked us to consider other changes as part of these regulations. Given the prescribed powers in the PSPJOA, other policy matters are not appropriate in these remedy scheme regulations and were outside the scope of the issues consulted on. For example, a consolidation exercise for the legacy pension schemes, a unified definition of pensionable pay across the pension schemes, and concerns about the pension age of the 2015 scheme leading to more ill-health retirement.
- 5.10. There were concerns that there are too many ‘discretionary powers’ for scheme managers which may lead to inconsistencies across the locally administered schemes, with requests for the Home Office to provide guidance. The nature of the provisions these regulations are making, and the complexity of personal circumstances means that individual decisions will have to be made by scheme managers.
- 5.11. There were concerns about the application of interest. The provisions governing interest are not part of the change being made in this set of scheme regulations and therefore were not subject to this consultation – those provisions are set out in the PSPJOA and HM Treasury Directions.
- 5.12. It was noted on multiple different issues that the remedy will require careful explanation/guidance to members. It is not the role of regulations to provide guidance or tools – they are there to provide the framework within which the scheme operates. There was also a general concern that the accompanying actuarial guidance is not yet available to go alongside the regulations. The Home Office can confirm that the guidance is being prepared and the government Actuary’s Department (GAD), as the scheme actuary, are liaising with stakeholders to agree a delivery schedule that best supports implementation.
- 5.13. Some responses were disappointed that the consultation document was not simply a plain English translation of the regulations and that it included some subjects that were not referred to at all in the draft regulations. It was important to

consult on certain issues that were not being regulated for as the PSPJOA and HM Treasury Directions already provided the mechanism, but there was potential to regulate for certain aspects of those issues, if it had been considered appropriate.

- 5.14. In response to all questions some responses raised concerns that the regulations were drafted in a way that is difficult for individual members to understand. Pensions are a complex technical subject and, while efforts have been made to ensure that the drafting is as straightforward as possible, some aspects of the remedy are necessarily complex. It is key that the regulations use appropriate language and cross-reference with other relevant legislation so that they operate correctly.
- 5.15. The regulations will come into effect on 1 October 2023. Overall, this meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately. Police scheme managers and employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes.



## 6. Responses to specific questions

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### **Question 1 - In and out of scope: Do the proposed amendments to scheme regulations clearly define which members of the police pension schemes meet the criteria to be eligible for the remedy?**

#### **Summary of responses**

- 6.1. 90 responses were received to the closed question. 59 responded yes, that the provisions clearly define which members met the criteria to be eligible. 31 responded no, indicating it did not. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.2. Where open text was given not in agreement with the proposal the majority focused on more general issues that did not directly answer the question, such as concerns relating to the age retirement issue, their dissatisfaction/disagreement with the 2015 reforms overall and how they did not find the drafting of the regulations easy to interpret.
- 6.3. Other responses noted that they remain concerned about the exclusion of scheme members who joined a legacy scheme between April 2012 and March 2015 and did not feel that adequate justification for this approach had been provided.
- 6.4. Other responses also raised concerns about the absence of references in the remediable service legislation to remedy eligibility criteria, and about ensuring those individuals who had opted out of the legacy schemes on or before 31 March 2012 are eligible for remedy.

#### **Government response**

- 6.5. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will clearly define which members of the police pension scheme will be eligible for the remedy as defined in the PSPJOA.
- 6.6. As noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the accessibility of the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.7. The overarching approach to the remedy, including which cohorts would be eligible, was consulted on in *Public service pension schemes: changes to the*

*transitional arrangements to the 2015 schemes* in 2020. The conditions for eligibility for the remedy were therefore outside the scope of this consultation on retrospective regulations for the police pension scheme.

6.8. The discrimination identified by the courts was between those who were in service on 31 March 2012 and received full transitional protection and those who were in service then but did not receive full transitional protection because they were more than ten years from NPA. Members who first joined any public service pension scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, and therefore were not subject to the discrimination identified by the court and are not within scope of the remedy. This approach was legislated for in the PSPJOA 2022.

6.9. Eligibility to remedy relies entirely on the PSPJOA, though the scheme regulations do cross-reference it.

**Question 2 - DCU and IC: Are there any other areas which you think should be addressed in these regulations in order to ensure that all eligible members receive a choice of pension benefits at their point of retirement, for the period for which the discrimination existed (1 April 2015 - 31 March 2022), from 1 October 2023?**

### **Summary of responses**

6.10. 87 responses were received to the closed part of this question. 50 agreed that the proposed approach that all eligible members will receive a choice of pension benefits at their point of retirement. 37 didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police sector stakeholders.

6.11. Where open text was given not in agreement with the proposal, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Generally, issues raised included respondents' dissatisfaction with the 2015 pension reforms overall. This included some more individual concerns, such as the position for members on career break, the age at which members can draw benefits and members who are due to retire.

6.12. Some responses expressed the view that they did not find the drafting of the regulations easy to interpret overall.

6.13. Other responses raised issues about RSS and contingent decisions (and repeated those concerns in the relevant questions below), but not the substance of this question.

6.14. Some responses representing organisations linked to administering the schemes were concerned that the regulations do not allow for members who are retiring at or shortly after 1 October 2023 to receive an RSS and make an informed decision, as the regulations require an election by 6 months before retirement. However, the regulations do allow a scheme manager to agree a shorter time for members to make an election. These responses noted that some other devolved administrations are treating this differently and are providing a transitional ‘safety catch’ to ensure that members can retire immediately after 1 October 2023 on legacy terms with a reformed choice to follow. These respondents are keen to ensure the regulations do not prevent a scheme member from receiving the options they are entitled to immediately after retirement.

### **Government response**

6.15. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.

6.16. On the more individual issues, the regulatory framework does provide for those who have taken authorised career breaks and it already allows those with legacy service to be able to take that benefit at the expected age and length of service. However, it is not possible for either the regulations or the consultation to provide personalised pension forecasts – that is an issue that only a member’s scheme administrator can resolve.

6.17. On the issue of allowing for scheme members who are due to retire shortly after 1 October, suitable provisions have been made in the regulations to allow for this scenario, in practical terms allowing benefits to be paid until an election can be made.

**Question 3 - DCU timing of RSS: Do you think that the policy proposals about the timing of when a scheme member can request an RSS in anticipation of retirement strike the right balance between a suitable period to make a decision, proximity to retirement date and any administrative considerations?**

### **Summary of responses**

6.18. 86 responses were received to the closed question. 30 agreed that the proposed approach is a suitable period to make a decision, and 56 disagreed. Others may have provided commentary without a clear ‘yes or no’ response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.19. Where open text was given with an answer that did not agree with the proposal, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again,

issues raised included their dissatisfaction/disagreement with the reforms overall and how they did not find the drafting of the regulations easy to interpret overall, but also some more individual concerns around members who are due to retire imminently and concerns around their ability to plan for retirement.

- 6.20. Respondents for staff associations thought, in general terms, that there was enough time for a member to make a decision but didn't give a consistent view on whether a shorter period would be preferable. Their concerns were about timing issues between receiving an RSS and being able to make a choice. Some were concerned about members being required to give six to 12 months' notice (as set out in the draft regulations) but gave no clear view about what timeframe would work and did not factor in the discretion the draft regulation gave to scheme managers.
- 6.21. Other responses noted that a shorter period with a minimum around 3 months and (in some responses) a maximum around 6 months would be more appropriate. There were also responses that queried whether a timeframe was needed. They also noted that the provisions give a scheme manager some discretion about timing but felt that it would 'not be reasonable to expect the scheme manager to use that power broadly'. While that discretion does allow scheme managers to deal with atypical retirements (e.g. ill-health) it is already provided in the regulations that the scheme manager can decide to offer a shorter period.
- 6.22. Other responses also commented that it would seem sensible to have a time limit on revocation or a 'cancellation deadline' (to prevent decisions being revoked at the last minute when an administrator may already have processed the final retirement calculations and made the necessary arrangements for payment). Such responses suggested that around 10 working days would be reasonable.

### **Government response**

- 6.23. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14. On the issues around individual projections and retirement plans, it is not possible for either the regulations or the consultation to provide personalised pension forecasts – that is an issue that only a member's scheme administrator can resolve.
- 6.24. After considering the substantive responses to this element of the consultation and informal engagement, the government is content that the period that a member has to request their final RSS in advance of making their choice should be set at 3 to 6 months in advance of retirement. It should be noted that a scheme manager can agree to a shorter period. On the suggestion not to set a time-period, if there isn't one (other than 'less than 12 months' as set by the PSPJOA) then every decision on timing would become a scheme manager

discretion. The government considers that this would not provide sufficient certainty to scheme administrators or to members as to the process for making a choice of benefits.

6.25. The government has also agreed to introduce a deadline by which deferred choice elections can be revoked or changed. Any changes to elections will need to be made at least ten working days before the benefit becomes payable. This will help avoid administration problems with last minute changes when payments have already been processed.

**Question 4 - RSS: Do you think the policy proposals in relation to scheme members receiving an RSS achieves what is in section 29 of the PSPJOA and direction 20 of Treasury Directions?**

**Summary of responses**

6.26. 85 responses were received to the closed question, with 39 responses agreeing that the government's proposed approach achieves what is set out in section 29 of the PSPJOA. 46 responses did not agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.27. Where open text was given, with an answer that didn't agree with the proposal, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.

6.28. Some responses agreed that the proposals achieve the required outcome.

6.29. A few responses would like to have seen more in the regulations that prescribed what should be in an RSS. There was a concern that paragraph 5.42 of the consultation seemed to advise contradictory approaches about the benefits a member might receive as a result of remedy. They would also like to know what 'certain parameters' meant in paragraph 5.63 of the consultation.

6.30. Responses also raised the general issue of what information is contained in Annual Benefit Statements, however, that is outside of the scope of this consultation given the limitations of scope of the PSPJOA.

6.31. Responses also welcomed the example RSS that employer representatives have provided.

6.32. A few responses would have liked the regulations to specify different types of RSS, according to what part of the lifecycle a member is in.

- 6.33. Other responses also asked whether the regulations would specify how tax information should be supplied in an RSS, given the level of concern amongst members about tax that might be owed.
- 6.34. A few responses queried why regulation 3 (2)(b) differentiates between active and deferred members. Other responses raised concern about the administration challenge for employers to issue an RSS on request to deferred members. It was suggested that RSSs could be supplied automatically as part of the process of providing annual deferred pension statements which would reflect a similar process as that for active members.

### **Government response**

- 6.35. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.36. On the suggestion for different types of RSS, while it is understandable why respondents might think this would be helpful, fixing this in regulations is likely to make the provision less flexible and therefore at risk of missing out a category or situation. The Home Office considers that the regulations already have a broad enough scope for this to be part of the administrative arrangements.
- 6.37. On the concern that paragraph 5.42 of the consultation document seemed to advise contradictory approaches, the Home Office can clarify that that paragraph highlights that a decision to have the alternative benefits may result in certain consequences. A payment might be more or less than current payments and it's possible that it might not be payable until a later date. These issues are dependent on the individual situation of the member and the choice they make. The point about remedy is that it recognises that the pension benefits are not simple and allows a member to make a choice having considered more than just the immediate monetary value of the benefits payable to them. On the concern about paragraph 5.63 of the consultation document, the parameters that determine how tapered cases are dealt with are set out in the PSPJOA and HM Treasury Directions. The relevant provisions are the power to reduce or waive liabilities and the power to pay compensation in combination, which need to be exercised on a case-by-case basis.
- 6.38. On specifying tax information that must be included in the RSS, a member's tax position is not governed by the pension regulations, which means that trying to specify could potentially omit an obscure piece of tax information that applies in a handful of cases. However, it is important that an RSS has all the information held or generated by an administrator in the calculations for remedy.

- 6.39. On the example RSS the employer representatives have been working on with other stakeholders the Home Office agrees it would be a helpful guide for administrators.
- 6.40. In relation to differentiation the between active and deferred members this is because the PSPJOA makes different provision for when a subsequent RSS has to be issued to active members as opposed to deferred members – see s. 29(8) of PSPJOA. It is also the government’s view that employing police forces already have the flexibility if they want to provide deferred members with an annual RSS as part of the annual deferred pension statements. No specific additional legislative provision would be needed for this.
- 6.41. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

**Question 5 – Transfers: Do you think that the policy proposals that transfers that came into the 2015 reformed scheme will be held in the 2015 reformed scheme until the point of decision achieves the policy intention of preserving transfer rights?**

**Summary of responses**

- 6.42. 84 responses were received to the closed question. 47 agreed that the proposed approach preserves transfer rights and 37 did not agree. Others may have provided commentary without a clear ‘yes or no’ response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.43. Where open text was given with a negative answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall. There was also a degree of misunderstanding about what a transfer was – some respondents thought that it was the service accrued in the remedy period.
- 6.44. A majority of responses agreed that the proposals achieve the policy intention.
- 6.45. A few responses were concerned that the conversion to compensation means that the preservation of transfer rights is not achieved through the current drafting of the proposed remediable service provisions. Other responses believe that members who have a transfer but can’t convert should be offered added pension if their transfer cannot be converted to legacy scheme benefits.



- 6.46. Other responses also noted that compensation in lieu of transferred-in pension rights might breach, or put members at risk of breaching, existing HMRC legislation that governs pension transfers. There was also the question of whether a transfer would be exempt from the pension input amount calculation, as it would be when transferred initially.
- 6.47. While one response agreed that the policy on transfers works, they were keen to know when GAD guidance will be available to do any conversions for compensation. They also asked how transfers that were 'converted' and paid under immediate detriment were to be treated.
- 6.48. Other responses were concerned about the administrative complexities of this system, how interest will factor into the calculation, and were keen to have the actuarial guidance on how these calculations will work. They also asked about changes to the Public Sector Club Memorandum.

### **Government response**

- 6.49. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. We have addressed concerns about the language used in the regulations in paragraph 5.14. Also, the PSPJOA treats a transfer differently to pension built up as a result of service in the remedy period. This, and the existing transfer rules in the pension schemes which can limit transfers in, are why it is preferable to wait until the point of making a decision on remedy to move the transfer rights.
- 6.50. The conversion to compensation provision does not mean that transfers are not preserved. The majority should be able convert their transfers into the alternative scheme. Conversion to compensation only arises for members who choose legacy scheme benefits, whose transfer cannot (in full or part) be converted to legacy scheme benefits and are also unable to have the transfer associated with post-April 2022 service as they left service before April 2022.
- 6.51. Converting the transfer to an added pension would introduce new difference of treatment (those who had transfers getting access to a facility that others could not have had access to at the time).
- 6.52. On the question about breaching existing HMRC regulations on transfers, an unauthorised charge may occur. If any unauthorised payments do arise as a result of this, they would be able to be compensated. HMRC confirmed that a transfer would not materially impact the outcome of the pension input amount calculation as a transfer would be included in the opening and closing values of the calculations, just as it was when transferred initially.



- 6.53. On the administration and guidance issues, actuarial guidance will be available, including guidance on the approach to applying interest. On detail of how it will be administered (e.g. how the scheme manager will contact the member and when), that is a matter for scheme managers.
- 6.54. The policy on the Public Sector Club Memorandum is owned by Cabinet Office and does not form part of this consultation.
- 6.55. On the question about Immediate Detriment (ID) cases, the processing of these was always contingent on the whole ID case being able to be resolved. Therefore, ID cases with unresolved transfer issues are not expected.

**Question 6 – Added pension: Do you think the policy proposals in relation to scheme members with added pension puts all eligible members in the same position?**

**Summary of responses**

- 6.56. 85 responses were received to the closed question. 33 responses agreed that the proposed approach puts all scheme members with added pension in the same position and 52 respondents didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.57. Where open text was given with a negative answer, many responses focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall. There was also a degree of misunderstanding, as some responses thought that those with remedy period added pension rights would be barred from making a contingent decision to purchase legacy scheme additional service – this is not the case. There were also some members who confused added pension with transfers.
- 6.58. Some responses agreed that the proposal achieved the policy outcome. Some also thought that it could be altered to offer an automatic conversion to added service in the relevant legacy scheme.
- 6.59. Other responses favoured the alternative suggestion where the added pension could be retained until the member makes their election, in the same way as added service benefits.
- 6.60. There was also a proposal that the fact that an eligible member bought added pension in the 2015 scheme should automatically qualify as sufficient evidence for a contingent decision that they would have bought added service.

6.61. A few responses did not agree with the proposal as they would like to see a conversion instead.

### **Government response**

6.62. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.

6.63. On the confusion about whether those with remedy period added pension would be allowed to make a contingent decision to purchase legacy scheme additional service, any eligible member who meets the legacy scheme criteria (as they would have applied for purchase of additional service during the remedy period) will be able to make a contingent decision to purchase additional service. It will also be open to eligible members who continue to be active pension scheme members to buy added pension now.

6.64. Conversion to added service cannot be offered as an automatic route as the criteria a member has to meet to be able to buy added service are much stricter than those for added pension.

6.65. On allowing added pension contracts taken out during the remedy period to be resolved at retirement, the consequence of the remedy is that all eligible members are put back in their legacy schemes. Added service contracts started during the remedy period (whether at the time or retrospectively through a contingent decision) will still be under the legacy scheme but added pension contracts from that period cannot exist under the legacy scheme. The vast majority of members are likely to choose legacy scheme benefits for the remedy period and anyone who is still serving (and a member of the pension scheme) will be able to purchase added pension in the 2015 scheme.

6.66. On the point about an eligible member who had bought added pension in the 2015 scheme automatically qualifying as having sufficient evidence for a contingent decision that they would have bought added service, that seems a reasonable approach. However, this is an administration process and the obligation to do this will not be provided by scheme regulations.

6.67. On offering conversion instead, to do other than offer a refund to all would lead to situations where some members qualify for additional benefits of one sort or another and other members (who would like to have had additional benefits) do not qualify. A key principle behind the remedy is that the aim is to put members back in the position that they would have been in. This, and the need to avoid further difference of treatment when implementing remedy, mean that alternatives have had to be considered carefully.

***Constructing a new AP section of the legacy scheme for conversion of AP benefits:***

6.68. The problem that would arise is this would be a special arrangement that was not available to (protected) legacy scheme members when they were in the scheme. That would result in a new difference of treatment. The further option of allowing legacy scheme members to access a new AP section would be an improvement at employer cost to a very valuable closed scheme. That would be against the principles of reform set out in Hutton and would lead to questions about how the timing of any legacy member's election to purchase AP could be fairly determined when compared to the 2015 scheme member. Allowing such a facility for retired members and those who can take benefits before age 55 would be very likely to lead to unauthorised payment consequences as the facility for AP was not part of the scheme on the necessary dates in 2003, 2004 and 2006 for the purposes of the Finance Act 2004 and might well result in the scheme becoming non-tax compliant.

***Conversion of AP to Additional Service (AY):***

6.69. The rules governing AY for the legacy schemes limit the amount of service a member can buy and, in many cases, mean that a member cannot buy AY at all. To allow AP in all cases to be converted to legacy AY would effectively give unprotected members a way of accessing AY in circumstances where protected members would not have been allowed. Again, that would be a new difference of treatment. To open up AY purchases to any legacy member without limit would be a considerable uncoded improvement to a closed legacy scheme as the factors as they stand are on the basis of the current terms of the facility, which, again, would be against the Hutton reform principles. Moreover, any change to allow such a purchase would only come into existence from October 2023 it would be a way of allowing accrual in a legacy scheme beyond 1 April 2022, which is not allowed. There is a further possible complication with conversion as members might not be entitled to be credited with additional service in the legacy scheme for the (full) value of their AP if they're already close to maximum service under the legacy scheme.

***Holding the AP 'on record' until DCU:***

6.70. The comparison was drawn with the proposal for transfers. However, that situation allows for a record to be held in both cases (protected and unprotected members would have all been able to have a transfer in). For AP, it could only happen for unprotected members. Again, it would allow that cohort a way of accessing AP that protected members would not have – another difference of treatment issue.

***Allow payments at retirement to re-instate the AP:***

6.71. Allowing members who had had compensation (in respect of AP) to pay it back (even though interest would have to apply) would effectively be allowing a

group of members with remediable service preferential access to AP. Again, a difference of treatment issue.

### ***Overall conclusion on conversion***

6.72. Our conclusion is that none of these alternatives can provide a conversion solution given the issues that arise. This means that the only option under the PSPJOA that is open to the police schemes is to offer compensation. The original election by the member to purchase added pension would effectively be made null and void. For members with AP arrangements that commenced during remediable service in the 2015 police scheme (i.e. those that started before April 2022), the 'return of contributions' will be achieved in the form of compensation equivalent to the contributions paid less the amount representing the tax relief from which the member benefitted plus any interest due. Protected members without any reformed scheme service in the remedy period will not be entitled to this form of compensation (since they could not have made reformed scheme AP purchases in the remedy period). The original election by the member to purchase added pension would effectively be made null and void.

6.73. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

### **Question 7 - Contributions: Do you think the policy proposals in relation to scheme members contribution adjustments is in line with section 26 of the PSPJOA 2022 and HM Treasury Directions?**

#### **Summary of responses**

6.74. 84 responses were received to the closed question. 33 responses agreed that the proposed approach is in line with section 26 of the PSPJOA and HM Treasury Directions and 51 didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.75. Where open text was given with a negative answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall and how they did not find the drafting of the regulations easy to interpret overall. Some also felt that it was not fair on members to have to pay the missing contributions. There was also concern about interest applying.

6.76. Some responses queried how the contribution adjustment will apply to pension benefits if not paid by the time of retirement. They were keen to see a choice between deduction from lump sum and ongoing pension. There was also a

*misunderstanding about the rate of interest that will apply 'as we understand it, these contributions will attract interest at the applicable National Savings and Investments rate(s). Conversely, if a member were to receive a refund of those contributions the interest rate applied would be 8% per annum (simple).'*

6.77. Other responses were unsure when they would get sight of the final GAD calculator and that the regulations do not specify how to calculate the contribution adjustment. Some responses would have liked to have seen a contribution adjustment record. Some responses commented that periodical contributions, particularly for deferred members would be unwieldy to administrate, impossible to audit and come at significant cost. Some respondents would have liked to have seen the opportunity to pay by lump sum to be aligned with the receipt of an RSS. They suggested providing three options for adjustments.

- I. Provision of first RSS by 31 March 2025
- II. Annually on receipt of ABS-RSS
- III. At retirement on receipt of DC-RSS.

6.78. A few responses did not believe that the proposal on contributions was in line with the PSPJOA and HM Treasury directions. However, the focus of their concern was on whether the regulations prescribed in detail how the payments should be made and when. They were also concerned that the devolved administrations might be following a different route for repayments that might make cross-border transfers more administratively complicated. Other responses thought that the proposals were in line with the PSPJOA and HM Treasury directions.

6.79. A few responses believed that it was unfair to only allow repayment at the point of benefit crystallisation.

6.80. A few responses felt that interest is unfair on members as they did not know they had suffered discrimination and they proposed that interest on contributions should be paid by the employer, with the member paying contributions back at the point of benefit crystallisation, without ever paying the interest as required by HM Treasury directions.

6.81. A few responses also recommended that for police officers still serving, the ability to allow periodic payments through the payroll be considered but limited to the pension year that is provided with the relevant RSS, which could ameliorate the cost for the lowest earners.

6.82. The SAB noted that the regulatory position taken to the adjustment of contributions, means that adjustment contributions for honoraria or opt-outs are not specifically referenced in the regulations.

## **Government response**

- 6.83. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.84. On the point about it being unfair for members to have to pay contributions to make up the difference between their actual remedy period contributions and what they *should* have paid for the scheme that they choose, it would be more unfair to members who had made the correct contributions at the time if another member was able to choose the same scheme as them but not pay the correct contributions.
- 6.85. On the issue of which rate of interest applies, on sums owed *to* members, the HM Treasury directions set out that the interest rate typically applied by the courts (around 8% simple interest) would apply to all contribution compensation calculations up until the date 28 days after a remediable service statement is first issued; *after* that (if they choose to leave it in the scheme) NS&I Equivalent Savings Rate would apply as compound interest. On sums owed *by* members, NS&I Equivalent Savings Rate applies as compound interest. This is all provided for in HM Treasury Directions and is described in [a letter from HM Treasury to the Government Actuary](#).
- 6.86. Certain provisions have been made for the contribution regime, in particular linking the window of opportunity to pay by lump sum to the receipt of an RSS and putting in a dedicated pathway to allow members who elect to buy-back opted out service to make the necessary payments over 14 years. It should be noted that the PSPJOA/RSS determinations already set out that scheme managers must hold information about any contribution adjustments.
- 6.87. On the uncertainty around the remedy calculator, the Home Office can confirm that throughout this year GAD, as the scheme actuary, have been working closely with police employer stakeholders on a timeline for finalising the calculator. GAD will continue to work closely with police employer stakeholders on this important tool.
- 6.88. On the concern about when a member can make payments for owed contributions, members will be able to repay at the point of receiving their first RSS, at other points while still serving/not yet retired as well as when they retire or crystallise their benefits. This will include payments for contingent decisions to reverse an opt-out and, as noted in 6.123 below, there will be an additional option of periodical contributions for payments in respect of reversing opt-outs.
- 6.89. On honoraria, provisions have been made to allow an eligible member to revise that decision. A member who either chose or would have been able to choose to have their temporary pay paid as an honorarium will be able to make the alternative choice at the point that remedy period benefits change to the alternative scheme. This means that members who were in the 2015 scheme during the



remedy period and who would have been entitled to take an honorarium under their legacy scheme will be able to choose at rollback to have their remediable service treated as though they had elected for an honorarium. There will also be an opportunity for members with remediable service in a legacy scheme, who elected for an honorarium and who use their IC or DC to elect for 2015 scheme benefits during the remedy period, to choose to have their remediable service treated as though they had not elected for an honorarium.

6.90. On the concern about interest being unfair, the fact it applies is set out in the PSPJOA and HM Treasury Directions and the application of interest was therefore outside the scope of this consultation. Interest has been included by the PSPJOA and HM Treasury interest Directions as part of the aim to put members, as far as possible, in an equitable position with those who made the payments during the remedy period.

6.91. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

**Question 8 - Ill-health Retirement: Do you think the proposed arrangements for members that qualify for ill-health retirement during the remedy period (1 April 2015 – 31 March 2022) may cause any adverse impacts?**

**Summary of responses**

6.92. 82 responses were received to the closed question. 41 agreed that the proposed approach would not cause any adverse impact for members retired under ill health during the remedy period and 41 didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.93. Where open text was given with a positive answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall. Responses were also concerned that ill-health retirements would increase due to the normal pension age of the 2015 scheme being age 60. Others were concerned that these arrangements would discourage members from ill-health retiring now, as opposed to ill-health retiring during the remedy period.

6.94. Responses expressed a preference to have had a comprehensive explanation of the ill-health retirement provisions in the consultation document and a desire for comprehensive guidance on managing ill-health retirement. Some responses did not raise concerns on the overarching arrangements proposed.

Three technical points were raised: the timing of the information a Selected Medical Practitioner (SMP) can consider, the definition of the 'relevant period' and whether progressive medical condition cases were covered.

- 6.95. A few responses were concerned that some points on the ill-health provisions did not match with what they had been anticipating. Two particular points concerned the timing of a 'relevant period' review by the SMP and whether a SMP can decide not to examine a member when reaching a decision.
- 6.96. A few responses were concerned that reassessing this cohort of eligible members would be costly and that members may not wish to co-operate due to a perceived impact on injury benefits.
- 6.97. A few responses felt that the wording of the consultation implied that there must be subsequent 5-year review, even if they meet the criteria on the original assessment, to see if they still meet the criteria.

### **Government response**

- 6.98. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14. On the concerns about the normal pension age of the 2015 scheme (age 60) resulting in more members being ill-health retired, that is not directly to do with this remedy and, therefore, this consultation – the normal pension age of the 2015 scheme was set out in 2013 as part of the long-term reforms.
- 6.99. Suitable provisions have been made to address the three technical points: whether the 'relevant period' covered all the time necessary, the question about the definition of 'relevant period', and the progressive medical conditions point. On the timing of a 'relevant period' review by the SMP the Home Office can confirm that the way the provisions are drafted is that the member need only meet the criteria at any point in the relevant period. If they did meet the criteria at any point, that's the end of the question - there is no subsequent reassessment for the purposes of determining the position in the remedy period.
- 6.100. On the SMP being able to decide whether or not to examine a member, the intention has been to allow the SMP to interview or examine a member if they think it is appropriate - i.e. they don't have to if they don't think it's appropriate – the draft regulations consulted on achieved this. It should be noted that the drafting consulted on matched the existing drafting in the scheme regulations, which is already considered broad enough to permit a SMP to make a decision without examining a member. However, given that the scope for application of this regulation is relatively narrow, it has been made clearer in the regulation that this is the case.



- 6.101. On the cost of reassessing, while this may well arise, it is not considered that reassessment can be omitted. It should also be noted that the need for reassessment only arises for those who were ill-health retired from the 1987 scheme during the remedy period. This is equally pertinent to the concern about the arrangements for reassessment discouraging people from being ill-health retired – it is not possible, as the arrangements only need to apply to those who have been ill-health retired during the remedy period. On members not wishing to engage with reassessment due to a perceived impact on injury benefits, that is a conflation of two very different processes. The criteria for assessing upper-tier ill-health benefits under the pension scheme are different to the criteria for assessing the level of an injury award.
- 6.102. On the concern that there must be a 5-year review, that was not the intention of the consultation. To be clear, the remedy means that a member in this position must be assessed to see if they meet the upper tier criteria – that can be either at the point they were originally assessed or within 5 years of retirement<sup>5</sup> (subject to an absolute cut-off of the date they make their choice). This is nothing to do with the provisions in the 2015 scheme that allow review of a successful upper tier assessment – they only start to apply once a member has been assessed as meeting the upper tier criteria.
- 6.103. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

**Question 9 - Abatement: Do you think the policy proposals in relation to scheme members abatement achieves the correct position the member would have been in had they not transitioned to the reformed scheme?**

**Summary of responses**

- 6.104. 80 responses were received to the closed question. 37 responses agreed that the proposed approaches achieve the correct abatement position had the member not transitioned into the 2015 reformed scheme and 43 responses didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.105. Where open text was given with a negative answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing

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<sup>5</sup> There is also an exemption from the 5 year limit if a member is ill-health retired due to one of the conditions on the list in the regulations. However, these arrangements are about assessing what *has* happened before a member makes their choice, rather than trying to predict the future.

of the remedy and how they did not find the drafting of the regulations easy to interpret overall.

- 6.106. Responses noted that this issue will impact very few members and agree that the proposals are in line with the overarching principle of allowing members to choose the alternative as a whole package. They also noted the need for particular care in communications with members.
- 6.107. Some responses also noted that these cases may need to be administered manually. Others were concerned about how those who had already received pension (which might now need to be abated) should be treated.
- 6.108. A few responses noted that abatement is not directly referred to in the draft regulations, however they agree with the policy principles.

### **Government response**

- 6.109. After considering the responses to the consultation and informal engagement, the government is content that the policy intention will be achieved. There is no need to directly legislate for abatement in the regulations as this is already included in legacy scheme regulations, which will apply where a member chooses to receive legacy scheme.
- 6.110. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.

### **Question 10 - Contingent decisions: Do you think that the proposals with regards to contingent decisions give members opportunities to revisit pension benefit decisions taken during the remedy period?**

#### **Summary of responses**

- 6.111. 86 responses were received to the closed question; 42 responses agreed that the proposed approach gives members an opportunity to revisit pension benefit decisions taken during the remedy period and 44 responses didn't agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.112. Where open text was given with a negative answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.

- 6.113. Responses broadly agreed that the proposals in the consultation do provide members the opportunity to revisit their pension benefit decisions taken during, or around, the remedy period. However, they were both concerned that the regulations do not specify what information should be provided as evidence and noted there will be a variety of circumstances. Some responses suggested that the regulations should provide for members to self-certificate.
- 6.114. There were also concerns noted in responses that the current contingent decisions policy did not cover the full range of pension/non pension/other financial losses that an individual may have suffered because of the discrimination and about how this suite of issues will be communicated to members and suggestions that there should be standard templates and forms.
- 6.115. Some responses were also keen that 2015 scheme members who had purchased added pension should be allowed to convert it to additional service in the relevant legacy scheme.
- 6.116. On opt-outs some responses were concerned that there is no link to how contributions should be recovered and how a scheme manager might enforce deduction from benefits at retirement. There was also a request for a payment plan for recovery of opt-out contributions and a question about whether the period allowed for the option to be made was appropriate.
- 6.117. There were also concerns about how the additional accrual from reinstated service (rectified opt-outs) would be treated under the tax regime. Responses were keen that it should not be treated as accrual in the current tax year, rather it should be smoothed and treated as accrued across the remedy period.

### **Government response**

- 6.118. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.119. The risk with specifying what information qualifies as evidence for a contingent decision is that scheme managers would not be able to accept legitimate but unanticipated cases. It is not desirable to inadvertently prevent a member from qualifying due to their personal circumstances. On the idea of self-certification, scheme managers must act within the parameters set out in the PSPJOA, HMT directions and the retrospective regulations, therefore it is important that they review the evidence provided by members to ensure that the contingent decision cases they accept – and the solutions proposed – are permitted by legislation.
- 6.120. On the issue of allowing those with added pension to convert it into additional service, this is not provided for as the rules governing eligibility for added pension are not the same as those for additional service. All members with remediable

service who have purchased added pension will be treated equally by being given compensation representing a 'refund'. Those who meet the additional service rules' criteria will have an opportunity to purchase additional service in the legacy scheme, in the same way as any other member with remediable service who meets the additional service rules' criteria. An automatic route for this purchase is not being implemented – this is to ensure that the scheme complies with the [anti-recycling tax rules](#) (essentially that don't permit lump sums to be directly converted into new pension).

- 6.121. How this and other issues will be communicated to members are issues of administration and therefore more appropriate for scheme managers to determine for themselves. The Home Office will continue to support scheme managers, and these points will be passed on to scheme managers and those who work more closely on administration.
- 6.122. On the issue of contingent decisions policy not covering the full range of financial losses relating to the discrimination, the remedy is intended to put scheme members back into the same financial position as if the discrimination had not occurred. This includes provisions to allow schemes to provide compensation for financial losses where members can demonstrate they would previously have taken a different course of action were it not for the discrimination. If members feel they have suffered additional losses over this would need to be taken up through the normal channels.
- 6.123. On the opt-out contingent decision, it is prudent to establish an additional route for eligible members to be able to make the necessary contributions. A periodical contribution arrangement over 14 years has been added, so that such members have another way to make the payments. On whether the period is appropriate, there are good administrative reasons to limit the period during which an application can be made – in particular the PSPJOA 2022 envisages an election having to be made within a year of the first RSS being issued. However, the drafting has been altered so that the period is tied to the issue of the first RSS.
- 6.124. HMRC has confirmed that, for the purposes of Annual Allowance, the purchase by the member of previously opted out service is not dependent on the timing of the payment of employee contributions. The re-purchase of a member's service is retrospective and the Annual Allowance position follows from this, i.e. Pension Input Amounts will fall into the relevant past tax years.
- 6.125. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention. This meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately.

**Question 11 - Divorce: Do [you] think the policy proposals in relation to the calculation/recalculation of CETV figures to be used with pension sharing orders members achieve an outcome that recognises the impact of remedy on such calculations?**

**Summary of responses**

6.126. 85 responses were received to the closed question. 48 responses agreed that the proposed approach recognises the impact of remedy in relation to recalculations of CETV's and 37 responses did not agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.127. Where open text was given with a negative answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall. There were also some concerns about whether splitting the additional CETV was a fair way of dealing with it.

6.128. Responses generally agreed that the proposals accurately address the impact of remedy. Again, an area of concern for some was communications.

**Government response**

6.129. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.

6.130. On splitting the CETV, it is not the role of the pension scheme to negotiate divorce settlements. The only pathway open to the scheme is, therefore, to recalculate the CETV and provide any additional credit that may be due, where a pension sharing order is in place. Neither the scheme nor the PSPJOA have any powers to re-open a settlement.

6.131. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

**Question 12 - Bereavement and Child Pensions: Do the proposed amendments to scheme regulations achieve the policy intention of ensuring that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member?**

**Summary of responses**

- 6.132. 81 responses were received to this closed question. 52 responses agreed that the proposed approach ensures that a member representative can make a choice of benefits for a deceased member and 29 responses did not agree. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.133. Where open text was given with a negative answer, many responses focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.
- 6.134. Some responses felt that allowing a member's deferred choice decision to lapse if they die before benefits are paid did not seem justified.
- 6.135. Other responses declined to answer this question directly, but others agreed that the regulations achieved the policy intent. There was broad support for the approach to ensure that a child's pension will not be reduced. It should be noted that the regulations provide protection against a child's pension being reduced in the case where a surviving adult who does not have parental responsibility for them is making the election. Again, responses were concerned about communications.
- 6.136. A few responses suggested that the provision that allows a scheme manager to put a survivor benefit into payment in advance of making an election (paragraph 9 of regulation 11), should be mandatory not permissive.

### **Government response**

- 6.137. It should be noted that the regulations provide protection against a child's pension being reduced in the case where a surviving adult who does not have parental responsibility for them is making the election.
- 6.138. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.139. On the member's choice lapsing if they die before it comes into payment, a member is able to revoke their election until very close to the benefits coming into payment, so it would seem unfair not to allow a survivor the same option. What is also relevant here is that this situation would have to be a death in service close to retirement, so it will only happen in a minority of cases and therefore will not be such an administrative burden.

6.140. Making it mandatory for a survivor benefit to be put into payment where a member has died in service does not allow the beneficiary to decide that they would rather make their choice before the benefits are put into payment, with all the consequent unpicking that that might entail. This scenario will only arise in cases of deaths in service or (for deferred members) deaths before benefit crystallisation. It also gives the scheme manager discretion to be able to choose not to pay in complicated situations, for example where there is more than one adult with an interest in the benefits that could be payable. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

**Question 13 - Additional Changes: Are there any additional points not covered in this consultation paper that need to be considered as part of the McCloud Remedy proposed amendments to scheme regulations?**

**Summary of responses**

6.141. 80 responses were received to this closed question. 51 responses indicated 'yes' in response to this question and 27 responded 'no'. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.

6.142. Where a suggestion was given with a yes answer, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.

6.143. Responses had a number of suggestions. Some were in the scope of the changes in the regulations and others were not, either because they were suggestions for administrative process or guidance, or because the issue they referred to was not something that fell under the narrow definition of how the powers used in the amending regulations can be applied.

6.144. In-scope suggestions included:

- As many options as possible for members to make good any underpayments
- Giving members a right to change their decision if the information on the RSS used to make a decision is found to be materially incorrect
- Revisiting commutation decisions, particularly where it leads to unauthorised lump sums for IC members

6.145. Out of scope suggestions included:



- Framework/guidance for compensation
- Guidance for waiving liabilities
- The age retirement issue
- Recasting the definition of pensionable pay
- Guidance on compensation – funding guidance
- Tax calculator/guidance
- Data recording and General Data Protection Regulation (GDPR) requirements
- Application of interest
- Changing the accrual rate of the legacy pension scheme
- Amendment regulations to allow the underpin to be paid from the legacy scheme
- Changing the commutation factor in the reformed pension scheme

6.146. There were also other suggestions which were already dealt with by the legislative framework:

- Make compensation/contribution amounts CPI/RPI/Index-linked
- Opt-outs of the legacy scheme
- Concerns that scheme managers who are members of the scheme would be able to award themselves compensation if they have a legitimate case

### **Government response**

6.147. On the general issues, as noted in the summary, this consultation is about the remedy rather than the reforms which happened in 2015, and the timing depends on all the provisions for remedy being available. On the language in the regulations, pensions are a complex technical subject and while efforts have been made to ensure that the drafting is as straightforward as possible, some aspects of the remedy are necessarily complex. The regulations are not intended to be a member's guide in simple terms.

6.148. On the in-scope suggestions:

- Options for members to make good any underpayments: there are 3 options for doing this – at the point of implementation, later during service, and at retirement. There is an additional option of periodical contributions for those who make a contingent decision to buy back opted out remedy period service, because that payment is very likely to be so large that it would be unmanageable to resolve as a one-off payment.

- On the question about information in the RSS being found to be incorrect, this is a key reason behind question 3 on the timing of when a member should be asking for their RSS to make their decision – members need enough time to properly consider the decision they are making as it is irrevocable. Normal maladministration processes would be open to a member if a material error was found.
  - On revisiting commutation decisions, the PSPJOA allows a member to choose alternative benefits to those in payment, so part of that is being able to alter commutation decisions.
- 6.149. Other issues were considered to be out of scope for one of two reasons. Either because they were suggestions for scheme managers, administrative process or guidance, or because the issue they referred to was not something that fell under the narrow definition of how the powers used in the regulations can be applied. Also, as the consultation was about regulations to deliver the remedy, it wouldn't be right to make wider changes that were not in the remit of this consultation.
- 6.150. There are a number of areas where the Home Office is not responsible for the policy or legislation on, such as tax, compensation, data recording and GDPR requirements, and the application of interest, so it would not be appropriate for the Home Office alone to provide formal guidance on those areas. Guidance on HM Treasury directions and the PSPJOA is not something that is typically prescribed in scheme regulations, so is not part of the scope of this consultation.
- 6.151. On using this legislative vehicle to make other changes to the pension scheme (the age retirement issue, recasting the definition of pensionable pay, changing the accrual rate of the legacy scheme, changing the commutation factor in the reformed pension scheme), these matters are outside the scope of this consultation and response and therefore changes have not been made using these regulations.
- 6.152. On the age retirement issue, it is understandable that the age of retirement is very important to members. However, as noted in the summary, this issue is a consequence of the move from a purely service-based pension scheme to one that is also based on age. The 'two part' nature of the benefits and the different points at which they are paid was set out in 2013 as part of the long-term reforms.
- 6.153. Nonetheless, the government has considered various options that might help mitigate the age retirement issue. These have been partial retirement, late retirement factors and allowing an earlier deferred pension age, including suggestions by the staff associations.
- 6.154. The criteria for assessing options were cost, fairness to other scheme members, feasibility, and the impact on factors outside the pension scheme such as the workforce and tax. None of the options are without issues: all of them would be costly; some might cause the scheme to become non-tax registered, which would

remove tax relief on pension contributions for all members; and they would all introduce a degree of intergenerational unfairness through making improvements that only assist members with legacy scheme service. One particular option proposed, of allowing an earlier deferred pension age, seemed very likely to be discriminatory, as it would only apply for a limited group.

- 6.155. It is worth noting that, following concerns raised about the workforce impact of member behaviour, an alternative approach was suggested by employer representatives, focusing on retired officers re-joining as a way, in part, of mitigating the age retirement issue.
- 6.156. On the Framework/guidance for compensation, the obligation to compensate and criteria to do so sits within the PSPJOA and HM Treasury Directions. The power to pay compensation is set out in s.23 of the Act, and high-level principles to be applied by the scheme managers are provided by Direction 8 of the Directions. The Home Office's consultation did confirm that the power for scheme managers to pay compensation comes from the PSPJOA and HM Treasury Directions and that the draft Regulations will facilitate the payment of compensation. The Scheme Regulations are not an appropriate place for guidance for scheme managers and the Responsible Authority making the regulations must take care not to fetter the exercise of the scheme manager's powers in this respect.
- 6.157. There were also suggestions for changes to the existing scheme rules that are already achieved through the draft regulations (for example amending existing regulations so that the remedy is woven into existing scheme rules). This doesn't prevent a recommendation being made to the Home Office to consider consolidation in the future, but this wider exercise is not possible under this remedy.
- 6.158. On other suggestions which were already dealt with by the legislative framework, the compensation/contribution amounts have interest applied to them by HMT's interest directions. On the suggestion to allow opt-outs from the legacy scheme, this is no longer possible as the only scheme police officers can be a member of as of 1 April 2022 is the 2015 scheme. They are all able to opt-out of the 2015 scheme. In respect of Scheme Managers being able to award themselves compensation, the Home Office can provide reassurance that for the purposes of pension scheme decisions about chief constables (i.e. scheme managers), the definitions work so that the relevant pension supervising authority (i.e. the Police and Crime Commissioner) has ownership of those decisions.

**Question 14 – Equalities: Do any of the proposed amendments unlawfully discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do not, or fail to foster good relations between people who share a protected characteristic and those who do not?**

**Summary of responses**

- 6.159. 88 responses were received to the closed question. 67 responded 'yes' to this question and 21 responded 'no'. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with police stakeholders.
- 6.160. Where an answer in the affirmative was accompanied by a suggestion, many responses focused on more general issues that did not directly answer the question. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.
- 6.161. Many responses raised the age retirement issue.
- 6.162. A few responses felt that an Equality Impact Assessment (EIA) should have been published as part of the consultation.
- 6.163. Other responses felt that discretion lying with scheme managers would lead to unequal outcomes.
- 6.164. Other responses felt that the policy on added pension (compensation equivalent to refund for all eligible members) would be a potential detriment that women police officers are more likely to suffer than men. Others felt that the remedy would discriminate on the grounds of sex (particularly females during pregnancy) but did not always elaborate on how. Some suggested that it was because a female officer may have been part-time or taken a career break and therefore needed to work longer to achieve the same pension.
- 6.165. Other responses felt that any EIA should confirm that the position of applying interest to contributions is not discriminatory, particularly where the payment is left until retirement. Some respondents queried whether the repayment of contributions only by lump sum would result in a difference of treatment as it favours those closer to retirement as they will pay less interest.
- 6.166. Other responses felt that the remedy would discriminate against those going through divorce, although they did not elaborate on how.
- 6.167. Other responses felt that the position of the scheme manager also being the employer has not been properly considered to avoid any conflict in decision making by the force leading to potential unequal outcomes for members.

- 6.168. The Metropolitan Police Service (MPS) raised that the effect of delaying repayment of contributions might disproportionately affect certain protected characteristics of officers in the MPS; but they have found matching scheme membership data with workforce data exceptionally difficult. This means that there is no data or analysis to set out what this problem might be.
- 6.169. One response raised the issue of how Annual Allowance (AA) tax will be applied (and in and out of scope tax years) leading to inequalities between members. However, the tax regime is out of scope of this consultation as it is governed by different legislation.

### **Government response**

- 6.170. On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.171. As noted in the consultation document the Home Office always intended to publish an Equality Impact Assessment alongside this response to the consultation. The government can assure respondents that, as the PSED is an ongoing duty, equalities issues have been considered throughout the policy formulation process and will continue to be. The EIA will therefore include the full range of issues and views on these changes.
- 6.172. On scheme managers having discretion, this is a consequence of the complexity and variety of individual circumstances. Scheme Managers need to be able to consider individual cases when making certain decisions, rather than a blanket set of rules applying.
- 6.173. On the added pension position being a detriment to women, the cohort that will receive that compensation will be all those eligible members who took out added pension contracts in the remedy period. Those who are still members could take out a new added pension contract now or, if they would have qualified under the legacy scheme added service rules, elect to purchase added service through a contingent decision.
- 6.174. On the wider question of the remedy being a detriment to women because they have worked part-time or taken career breaks, the point seems to focus on women not being able to stay in the legacy scheme. This is not an issue that is part of this consultation or the draft regulations as the legacy schemes were closed to accrual after 31 March 2022 by the PSPJOA. There is also a difference between a member with part-time service being able to build up a pension that is a fair proportion of the equivalent full-time service members, and a member with part-time service choosing to stay on past the point at which benefits could be taken (the

- same point as the equivalent full-time member) so that they can accrue further benefits.
- 6.175. On the question of applying interest to any of the payments or compensation, this policy is not in the control of the Home Office and it therefore cannot be commented on from an equalities point of view in this consultation. However, it may assist to note that an EIA was published alongside the Treasury directions, which set the policy on interest.
- 6.176. On the concern about those going through divorce, it is not possible to address this as it is not clear what the concern centres on.
- 6.177. On the age retirement issue, while it is acknowledged that this issue is important to many of those who responded, the change that gave rise to it is not part of the changes that is being consulted on here nor does it arise as a result of Remedy. Having considered the issue carefully (see response to question 13), the conclusion is that changing the terms one or more of the pension schemes is not appropriate as every option leads to a difference of treatment. Also, it is possible without the need for any regulatory changes for scheme managers to mitigate the issue by encouraging members coming up for retirement to apply to return after retiring.
- 6.178. On the scheme manager also being the employer, this is the longstanding position for the police pension scheme and the powers being used do not allow for wholesale changes to the scheme's governance arrangements.
- 6.179. On delaying repayment of contributions potentially having a disproportionate effect on certain protected characteristics of officers in the MPS. While it is useful to receive such feedback, the lack of any data or explanation means it is very difficult to consider whether there is difference of treatment and mitigate it. Also, there are a range of options open to members to repay contributions, which gives them a choice and is therefore a significant mitigation for the population as a whole.
- 6.180. On the issue of how AA tax will be applied (and in and out of scope tax years), the tax regime is out of scope of this consultation as it is governed by HMRC legislation. This issue is dealt with by HMRC's tax regulations<sup>6</sup>, which are already in place and further tax regulations are due before the remedy is implemented.
- 6.181. After considering the responses to the consultation and informal engagement, the government is content that the proposed changes do not discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do

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<sup>6</sup> The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (legislation.gov.uk)

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 - GOV.UK (www.gov.uk)

**[Government Response to McCloud / Sargeant Remedy: phase two (retrospective) consultation]**

not, or fail to foster good relations between people who share a protected characteristic and those who do not. This meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately.



# 7. Impact Assessment and Equalities

## Impact Assessment

### Equalities

- 7.1. The Public Sector Equality Duty (PSED) is set out in section 149 of the Equality Act 2010 and requires public authorities, in the exercise of their functions, to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not, and
  - foster good relations between people who share a protected characteristic and those who do not
- 7.2. This involves having due regard to the need to:
- I. remove or minimise disadvantages suffered by people due to their protected characteristics, and
  - II. Take steps to meet the needs of people from protected groups where these are different from the needs of other people
- 7.3. The equality duty covers the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.
- 7.4. HM Treasury has conducted an equality impact assessment, which considers the impact of the overarching policy, powers and requirements associated with the PSPJOA. As set out in that assessment, in particular paragraph 1.8, that assessment ‘does not cover secondary legislation made using powers in this Bill. Separate analysis to consider the impact of changes to scheme regulations (beyond those covered and/or directed by the measures in the Bill) will be produced when the powers to do so are exercised’ HM Treasury has [also conducted an equality impact assessment for their directions](#).
- 7.5. Stakeholder engagement and informal consultation have supported the Home Office in identifying any potential risk of adverse impacts in relation to the protected characteristics. Such stakeholder engagement includes engagement with police sector employer and employee representatives, other government departments and devolved administrations. Through police pension scheme membership, all members in scope for the remedy will have equal access to the remedy, irrespective of any protected characteristic that may apply to them. The

**[Government Response to McCloud / Sargeant Remedy: phase two (retrospective) consultation]**

Home Office has produced an Equality Impact Assessment that is published alongside this response.

- 7.6. More information on the PSED can be found here:  
<https://www.gov.uk/government/organisations/home-office/about/equality-and-diversity>

## **Welsh Language Impact Test**

- 7.7. No specific issues were identified, and no responses were received in Welsh. Nonetheless, the Home Office continues to engage with stakeholders, including those representing scheme managers and members in Wales.

## 8. Conclusion and next steps

- 8.1. The purpose of the retrospective remedy is to remove past age discrimination for the remedy period and place all police pension scheme members in the position they would have been in before the discrimination occurred. However, police pension scheme members may consider that 2015 reformed scheme benefits are more suited to their circumstances and the retrospective remedy allows them to choose which scheme design should apply to them for the remedy period. Information will be provided to each member to allow them to make a choice within a specified timeframe.
- 8.2. This retrospective remedy marks the final phase of removing the discrimination arising as a result of protections provided under the reformed schemes for older police pension scheme members when introduced in 2015.
- 8.3. Police employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes.
- 8.4. Police pension scheme members who have already retired and/or received a pension award will be asked to make their choice as soon as practicable after the changes are implemented. The position they choose would be applied retrospectively back to the date the award was made.

## 9. Information and Data Handling

9.1. The Home Office will process personal data in accordance with the applicable data protection legislation. More information on what data is being collected, why and how it will be looked after can be found here: [Privacy notice - GOV.UK \(www.gov.uk\)](#)

9.2. This published consultation response may include extracts from any submission made by an individual or organisation. Comments made by individuals will normally be non-attributable, but responses should be aware that information provided during the course of this consultation may be released, on request, in accordance with the provisions of the Freedom of Information Act 2000. Personal data will likely be exempt. Comments submitted by an organisation are likely to be attributed to that organisation.

### **How long will we retain your data?**

9.3. Data protection law requires that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are collected. The Home Office will retain a record of the statistical analysis of returns, including the number of respondents, but personal information, including names, will not be retained after the Police Pensions (Remediable Service) Regulations 2023 are published.

# Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)

## Annex A – List of respondents

- Cheshire Constabulary
- Cambridgeshire Constabulary
- Chief Constable for Cleveland
- Chief Police Officers Staff Association
- Dyfed-Powys Police
- Greater Manchester Constabulary
- Hampshire & Isle of Wight Constabulary
- Hampshire County Council
- Heywood Pensions Technologies
- Leicestershire Police
- Local Pension Partnership Association
- Metropolitan Police Service
- Merseyside Police
- National Association of retired police officers
- National Police Chiefs' Council
- Northumbria Police
- North Yorkshire Police
- Norfolk Constabulary
- Police Scheme Advisory Board
- Police Federation of England and Wales
- Police Superintendents' Association
- Surrey and Sussex Police
- West Yorkshire Police
- XPS Pension Group
- Others are Individual members/employees

# Annex B: Glossary of terms used in the consultation document

Term	Meaning
<b>Abatement</b>	If you re-join the police and have a legacy pension in payment, it may be suspended. The 2015 reformed scheme is not subject to abatement.
<b>Accrual</b>	The rate at which pension benefits accrue for each scheme year. Each scheme is different in design and accrual rate.
<b>Active Member</b>	A member of the police pension scheme who is currently serving in the police and accruing benefits under the scheme.
<b>Added Pension</b>	2015 reformed police pension scheme only - an amount of extra annual pension that you can buy to increase either your retirement benefits and/or your dependants' benefits.
<b>Additional Service</b>	A way of increasing the benefits you receive (that is, final pension and lump sum) by purchasing extra reckonable service (legacy schemes only).
<b>Annual Allowance (AA)</b>	The AA is how much can be saved towards a pension each tax year without a tax charge applying. For Police Forces Schemes this is determined by the capitalised value of the increase in the accrued benefits over the tax year (that is, the growth of the pension in the tax year). The standard annual allowance since 6 April 2016 has been £40,000; this rose to £60,000 from 6 April 2023.
<b>Beneficiary</b>	A person who has become entitled to receive any death benefit.
<b>Cash Equivalent Transfer Value (CETV)</b>	A CETV is the expected cost of providing member's benefits within a scheme. It is used in pension sharing and pension transfers.



<b>Club transfer</b>	The Public Sector Transfer Club, also known as the Club, allows easier movement of employees and their pensions from one employer to another. Club members operate mainly within the public sector and rules are governed by the Cabinet Office.
<b>Commutation</b>	When a member gives up part of the pension income in return for a lump sum.
<b>Compound Interest</b>	A method of applying interest in which the interest itself earns further interest.
<b>Contingent decision</b>	A decision related to the pension scheme(s) that a member took or did not take as a result of the (actual or perceived) implications of the introduction of the reformed schemes.
<b>Deferred Choice</b>	The choice (or election) made by active or deferred members at the point when pension benefits, including Early Departure Payments, are due to come into payment. Covered under section 10 of the Act.
<b>Deferred Choice Underpin (DCU)</b>	The provision for members to remain in, or be returned to, the legacy schemes for service between 1 April 2015 and 31 March 2022. At the point of retirement (or when benefits become payable) or as soon as practicable (for members who have already had a pension award), members would then be able to choose to instead receive reformed scheme benefits for that period.
<b>Deferred Member</b>	A member of a police pension scheme who has left the force and has a preserved pension or a deferred pension not yet in payment.
<b>Deferred Pension</b>	If a member leaves pensionable employment before the retirement age for that scheme, they will become a deferred member and are entitled to a deferred pension when they reach the relevant Pension Benefit Age for the scheme to which they belong.
<b>Dependant</b>	Collective term to describe a member's spouse, civil partner, eligible partner or eligible child.

<b>Election</b>	Collective term used to cover immediate and deferred choice.
<b>Election Period</b>	The period of time within which a member must make a remedy election.
<b>Eligible Child</b>	A child, as defined in the relevant scheme rules, who is eligible for a child pension under the scheme rules.
<b>Honoraria</b>	This is a way for a member on temporary promotion to manage whether their temporary pay is pensionable or not.
<b>Ill Health Benefits</b>	If you are unfit for duty owing to ill-health or injury, then you may be entitled to ill-health pension benefits. The type of benefits you will receive are dependent upon your individual circumstances, the scheme(s) you belong to and the degree of disability.
<b>Immediate Choice</b>	Under section 6 of the Act members who already have benefits in payment or who have died by the time the remedy is implemented (as entitlement to the payment of benefits in relation to remediable service will have occurred) will be provided with an immediate choice.
<b>In-scope Member / Eligible Member</b>	The remedy applies to pension scheme members who were in pensionable public service both on or before 31 March 2012 and on or after 1 April 2015, including those with a gap in service of no longer than five years. The detailed eligibility conditions are set out in section 1 of the Act.
<b>Internal Dispute Resolution Procedures (IDRP)</b>	An internal dispute process required by the Pensions Act 1995. Under the IDRP process disputes can be considered independently by the Pension Ombudsman if they cannot be resolved internally.
<b>Legacy Scheme(s)</b>	Police Pension Scheme 1987 and/or Police Pension Scheme 2006
<b>Member</b>	An individual who joined the police pension scheme and is earning benefits under the Scheme (active member), has a deferred pension under the Scheme (deferred member), or is receiving a pension from the Scheme (pensioner member). In

	some cases this may also include pension credit members of the scheme.
<b>Opting Out</b>	When an individual chooses not to become a member of the police pension scheme, or chooses to leave the scheme, if already a member.
<b>Pension Sharing Order</b>	An Order made by the Court on divorce or dissolution of a civil partnership. It awards a share of pension benefits to a former spouse or civil partner, and they become a member of the Scheme in their own right.
<b>Pensioner Member</b>	Someone receiving a pension benefit from the Scheme.
<b>Police Pension Scheme 1987</b>	The Pension Scheme for police officers, introduced in 1972 and closed to new entrants on 6 April 2006.
<b>Police Pension Scheme 2006</b>	The Pension Scheme for police Officers, introduced in 2006 and closed to new entrants on 31 March 2015.
<b>Police Pension Scheme 2015</b>	The Pension Scheme for police Officers who join the force from 1 April 2015, and those members who were already in Service on that date and did not qualify for (unlawful) transitional protection. Since 1 April 2022 it is the only pension scheme available to Police Officers.
<b>Reformed Scheme</b>	Police Pension Scheme 2015
<b>Remediable Service</b>	Any pensionable service that occurs in the remedy period, between 1 April 2015 and 31 March 2022, and which meets the criteria set out in the Act.
<b>Remediable Service Statement (RSS)</b>	A Remediable Service Statement is a document which will clearly show the value of pension scheme benefits available under the election. Among other information, it will show the default entitlement as the value of legacy pension benefits up to 31 March 22 (or end of service if earlier) and then 2015 Reformed Scheme from that point forward (if there was

	<p>service after April 22). The alternative will show legacy pension benefits up to and including 31 March 15 and then 2015 Reformed Scheme benefits from that point forward.</p>
<p><b>Remedy Period</b></p>	<p>The government proposed that all eligible members of relevant public service pension schemes would be given the opportunity to choose which model of scheme benefits they would wish to receive (legacy scheme or the reformed 2015 scheme) for the period of 1 April 2015 – 31 March 2022 – known as the remedy period.</p>
<p><b>Retrospective Remedy</b></p>	<p>The roll back of members to their respective legacy schemes and a subsequent choice of benefits for the remedy period.</p>
<p><b>Roll Back</b></p>	<p>The term used to describe the process by which in- scope members are placed back into a relevant legacy pension scheme(s).</p>
<p><b>Scheme Manager</b></p>	<p>The Scheme Manager is responsible for managing and administering the police pension schemes. Individual forces are the Scheme Managers for the police pension schemes. Whilst authority is delegated to administrators, overall responsibility remains with the Scheme Manager.</p>
<p><b>Simple Interest</b></p>	<p>A method of applying interest in which interest is earned on the principal amount only.</p>
<p><b>Surviving Adult</b></p>	<p>A surviving spouse, civil partner or eligible partner dependent on the meaning within individual police pension scheme rules.</p>
<p><b>Transfer Value</b></p>	<p>The value of the member's pension benefits, expressed as a sum of money when a member requests to transfer between two pension schemes.</p>
<p><b>Treasury Directions</b></p>	<p>Treasury Directions, specify how certain powers under the PSPJO Act are to be used by public service pension schemes in their scheme regulations.</p>



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